

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Indonesia: End caning as a form of punishment in Aceh

The Indonesian government must end the use of caning as a form of punishment and repeal or amend the provisions of the Aceh Islamic Criminal Code (*Qanun Jinayat*) that provide for these violations of international law.

Caning has been used as punishment in relation to a range of criminal ‘offences’, including selling alcoholic beverages (*khamar*), consensual sexual relations (*zina*) and being alone with someone of the opposite sex who is not a marriage partner or relative (*khalwat*).

On 12 April, five people were caned in front of large crowds in Takengon, Central Aceh district, Aceh province. They include one couple convicted of committing “adultery” – that is, sexual intimacy outside marriage, one couple convicted of “being alone with someone of the opposite sex who is not a marriage partner or relative” and a Christian woman convicted of selling alcohol. The Christian woman who was caned 28 times for selling alcohol, is the first non-Muslim punished by caning under Shari’a law, which prior to October 2015 applied only to Muslims in Aceh province. The couple convicted of “adultery” were caned 100 times each and the couple convicted of *khalwat* were each caned three times.

Caning and other forms of corporal punishment violate the international law prohibition of torture and other cruel, inhuman or degrading treatment set out in the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT), to which Indonesia is a state party. In 2013, the UN Human Rights Committee, which monitors states’ compliance with their obligations under the ICCPR, called on Indonesia to repeal provisions that authorise the use of corporal punishment in Acehese law. In 2008 the UN Committee against Torture called on Indonesia to review all national and local legislation that authorizes the use of corporal punishment as a criminal sanction, with a view to the immediate abolition of such punishments.

The criminalisation of consensual sexual intimacy also clearly breaches international human rights law and standards. In particular the UN Human Rights Committee has ruled that laws criminalizing consensual sexual activity violate the right to privacy and should be repealed.

Authorities in Aceh must stop the use of caning as a punishment, and Indonesian and Acehese authorities must without delay review provisions in the Aceh Islamic Criminal Code which provide for caning and which criminalise consensual sexual relations, with a view to repealing them, or revising them to bring them into line with international human rights law.

At least 60 people have been caned so far this year in Aceh under the Aceh Islamic Code for offences including gambling, alcohol consumption, “adultery” and public displays of intimacy outside marriage. In 2015, at least 108 people were caned. Canings are regularly carried out in public spaces drawing large crowds where people take photographs and video which can add to the humiliation and long-term suffering of those who are subjected to this cruel, painful, degrading punishment.

Amnesty International and Institute for Criminal Justice Reform (ICJR) remind the Indonesian government of its international human rights obligations to ensure the respect and protection of human rights in all Indonesian laws and practices in all its provinces and autonomous regions, including those provinces with special autonomy arrangements. Where religious laws such as the Aceh Islamic Criminal Code are in force they must not be applied in a way that entails the imposition of criminal provisions and punishments which violate Indonesia’s obligations under international law.

The Aceh Islamic Criminal Code was passed by the Aceh parliament (DPRA) in 2014 and came into effect throughout Aceh Province on 23 October 2015. Shari’a bylaws have been in force in Aceh since the enactment of the province’s Special Autonomy Law in 2001, and are enforced by Islamic courts. These laws have been widely criticised for expanding the range of offences where caning could be imposed, in some cases providing for up to 200 lashes as punishment. Punishable offences include consensual intimacy or sexual activity for unmarried couples, consensual sex outside marriage, same-sex sexual relations, the consumption and sale of alcohol, and gambling. Despite being billed as an Islamic Code, *Qanun Jinayat* applies to both Muslims and non-Muslims; it includes offences which are not treated as crimes under the Indonesian Criminal Code (KUHP), as well as offences which conflict with international human rights law.